

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Intestate Succession and Wills Laws Concerning Wrongful Death

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 18-A MRSA §2-804, sub-§(b), as amended by PL 2007, c. 280, §1, is further amended to read:

(b). Every ~~such~~wrongful death action must be brought by and in the name of the personal representative of the deceased person, ~~and the~~. The amount recovered in every ~~such~~wrongful death action, except as otherwise provided, is for the exclusive benefit of the surviving spouse if no minor children, ~~and of the children if no surviving spouse, and one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them if there are both surviving spouse and minor children; and to the deceased's heirs to be distributed as provided in section 2-106 if there is neither surviving spouse nor minor children.~~ The jury may give ~~such~~ damages as it determines a fair and just compensation with reference to the pecuniary injuries resulting from the death ~~to the persons for whose benefit the action is brought and in addition shall give such damages as~~that will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses, ~~and in~~. In addition, the jury may give damages not exceeding \$500,000 for the loss of comfort, society and companionship of the deceased, including any damages for emotional distress arising from the same facts as those constituting the underlying claim, to the persons for whose benefit the action is brought, ~~and in addition~~. The jury may also give punitive damages not exceeding \$75,000, ~~provided that~~\$250,000 if the action is commenced within 2 years after the decedent's death. If a claim under this section is settled without an action having been commenced, the amount paid in settlement must be distributed as provided in this subsection. ~~No~~A settlement on behalf of minor children is not valid unless approved by the court, as provided in Title 14, section 1605.

Sec. 2. 18-A MRSA §3-817, sub-§(a), as amended by PL 2001, c. 217, §2, is further amended to read:

(a). ~~No~~A personal action or cause of action is not lost by the death of either party, but the same, including claims for pecuniary losses of the deceased that would have been realized but for the death, survives for and against the personal representative of the deceased, except that actions or causes of action for the recovery of penalties and forfeitures of money under penal statutes do not survive the death of the defendant. A personal representative may seek relief from a judgment in an action to which the deceased was a party to the same extent that the deceased might have done so.

SUMMARY

This bill amends the intestate succession and wills laws concerning wrongful death by increasing the amount of punitive damages that may be awarded from \$75,000 to \$250,000. The bill also clarifies that claims for pecuniary losses are not lost by the death of either party.